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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,671	10/17/2003	Shigeru Hayakawa	000409-065	8268

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,671

Applicant(s)

HAYAKAWA ET AL.

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/17/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 12/13/2002. It is noted, however, that applicant has not filed a certified copy of the Japan application as required by 35 U.S.C. 119(b).

Claim Objections

1. Claims 2, 4 are objected to because of the following informalities:

Claim 2 – recitation of “the biasing member for biasing the open lever” lacks clear antecedent basis in the claim.

Claim 2 – recitation of “the operating position” lacks clear antecedent basis in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Language of the functional limitation beginning line 10 of claim 1 is vague. Meaning of recitations of “thereby allowing the lift lever operable” and “thereby prohibiting the lift lever operable” is not clear, and/or is not phrased clearly. As used, meaning of “operable” is vague.

Additionally regarding that limitation; noting that the claim is for a *product*, defined by its structure, not a *process of using*, it is not clear what structure of the “open member” or other claimed elements is further defined by functional recitations of various positions at different times, particularly recitation of “and then becomes,...”. It is not clear if claimed invention must perform *steps* in a *process of using* in chronological order, or have structure/arrangement to perform function. See MPEP 2173.05(p) section II. Clarification is required.

Additionally, it is not clear what is meant by “and then becomes engaged with the lift lever in the other direction”.

The language of the functional limitation beginning line 18 of claim 1 renders the scope of the claim indefinite. It is not clear what structure of the claimed invention is defined by the limitation with particular note to awkward phrasing, grammar and/or missing words of last two lines.

Preferably, the claim should be amended to include –means for performing the desired function– or physical description of the structure disclosed for performing the desired function. See MPEP 2114.

Additionally regarding claim 2, it is not clear what is meant, possibly due to missing words or spelling error. Should “open lever” be –open member—to be consistent with claim 1 limitation?

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Additionally regarding claim 3, scope and meaning of "and the other end is engaged with an engaging portion provided on the open member so as to be located differently from the second rotational center" is not clear.

Additionally regarding claim 4, it is not clear what is meant, possibly due to missing words.

Additionally regarding claim 4, it is not clear if "the link member" refers to the previously-recited "open member" (corresponding to the disclosed "open link" (22)) or to some other generic element.

Additionally regarding claim 5, it is not clear what is meant, possibly due to missing words at line 4.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,803,515 to Arabia.

Arabia '515 teaches Applicant's claim limitations including a "lift lever" - 32, an "open lever" - 50, a "lock lever" - 141, 142, an "open member" - 34, a "biasing member" - 148 biases 34 towards the unlocked position when the latch

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is latched and locked and the release handle and the unlock mechanism are operated at the same time.

As regards claim 4,5, portion of 34 linking 32,34 reads on "link member". Although the biasing member (148) of the reference is not physically between the lock lever (141,142) and the open member, it does 'connect' them for performing the recited function (as best understood) where "connecting" is broad and does not require direct contact, especially here, where the 'connection' is defined functionally.

6. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,653,484 to Brackmann.

Brackmann '484 teaches claim limitations including : a "latch mechanism" - including 1, a "lift lever" - 3, an "open lever" - 4 or 5, a "lock lever" - 6,7, an "open member" - 10,17, a "biasing member" - 29 biases 10 towards the unlocked position when the latch is latched and locked and the release handle and the unlock mechanism are operated at the same time.

As regards claim 4,5, portion of 10 linking 10,7 reads on "link member".

Allowable Subject Matter

7. Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims without materially changing its scope and meaning 'as it is best understood' where several specific

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elements and their functional arrangement are set forth, that in combination, are not taught by the prior art.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 3,858,919 to Kleefeld.

U.S. Pat. No. 5,844,470 to Garnault.

U.S. Pat. No. 6,050,620 to Rogers.


U.S. Pat. No. 6,126,212 to Fujihara.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estrensky
Primary Examiner
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